

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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**NICHOLAS FITZGERALD**, on behalf of  
himself and all others similarly situated,

Plaintiff,

Civil Action

-v.-

11-CV-04287 (KM)(MCA)

**GANN LAW BOOKS, INC., GANN LEGAL  
EDUCATION FOUNDATION, INC. AND  
MICHAEL PROTZEL**,

Defendants.

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**DECLARATION OF JEFFREY M. EILENDER**

I, JEFFREY M. EILENDER, declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am a member of the firm Schlam Stone & Dolan LLP, and am one of the co-counsel for Plaintiff Nicholas Fitzgerald (“Plaintiff”) in the above-captioned action. I am admitted *pro hac vice* to this Court and I have personal knowledge of the facts set forth herein.

2. I submit this Declaration in support of Plaintiff’s and the Class’s Motion for an Order: (1) approving the Class Settlement; (2) approving the Class attorneys’ application for fees, costs and expenses, and (3) approving an incentive award for Plaintiff. I have personal knowledge of the matters set forth in this declaration, and could and would testify competently to their truth and accuracy if called as a witness.

3. I graduated Cornell University with a B.A. in 1988. During my three years at Columbia Law School, I was a Harlan Fisk Stone Scholar and served as a Senior Editor of the Columbia Law Review. I graduated from Columbia Law School with a J.D. in 1991.

4. I have significant experience in all stages of the litigation process, from discovery through trial and appeal. I also litigate class actions, including class actions concerning telecommunication consumer protection statutes such as the TCPA, 47 U.S.C. § 227 and corresponding state laws.

5. I am currently co-counsel for a Plaintiff in two TCPA class actions in New Jersey Federal Court and I have litigated another TCPA class action in the New Jersey state courts.

6. I also have significant experience in litigating complex commercial cases in both state and federal courts.

7. My firm was significantly involved in drafting the Plaintiff's opposition to Defendants' First Motion to Dismiss. In addition, I participated in a Settlement Conference with Mr. Bellin and Defendants and have consulted with Mr. Bellin about strategy in this case. I then participated in the mediation before (Ret.) Judge Marina Corodemus that resolved this case and worked on the final settlement. Next, my firm worked on the motion for preliminary approval of the class settlement, which was granted on April 25, 2014 without opposition, and then the instant motion.

8. I believe, after extensive negotiations, including information as to their financials which Defendants provided, that Defendants do not have the financial resources to satisfy a damages award that is significantly greater than what has been realized through settlement. I declare under penalty of perjury that the foregoing is true and correct.

9. To date, my firm and I have devoted 413 hours to this case.

10. I billed at \$475 but only worked 21.6 hours on the case, whereas most of the work was performed by attorneys billing between \$325 and \$375 an hour, which is our customary rate, and is in line with prevailing market rates, for a total amount of \$137,478.50 in fees. These fees are itemized in Exhibit 1, which are my firm's billing records.

11. The attorneys from my firm who worked on this case are well trained and experienced litigators. Andrew S. Harris (who worked 126.10 hours on this case) graduated from Stanford Law School in 2004 and clerked for a federal district judge. Raffi O. Melkonian (who worked 50.8 hours) graduated from Harvard Law School in 2005 and clerked for a federal circuit court judge. David G. Abrams (who worked 170.3 hours) graduated from Cardozo Law School in 2007. Niall D. O'Murchadha (who worked 2.8 hours) graduated magna cum laude from Fordham Law School in 2003. Hilary S. Zilz (who worked 0.3 hours) graduated from Harvard Law School in 1994.

12. Several paralegals worked on this case at a billing rate of \$135 per hour including: Cullen Byrne (5.3 hours) , Jae-Hee H. Honey (3.8 hours), Amelia Hritz (0.3 hours), Leonardo Moauro (7.0 hours), Julia H. Sear (12.0 hours), and Peter I. Willumsen (12.7 hours).

13. The total amount of expenses and disbursements my firm has spent on this matter is \$15,429.99. Attached as Exhibit 2 is an itemization of these expenses and disbursements.

Dated: New York, New York  
September 18, 2014

/s/ Jeffrey M. Eilender  
JEFFREY M. EILENDER